

.STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Thomas Kennedy,
Appellant,

v.

Mills County Board of Review,
Appellee.

ORDER

Docket No. 12-65-0297
Parcel No. 02812-001

On April 22, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Jordan Glaser of Peters Law Firm, PC in Council Bluffs, Iowa represented Appellant Thomas Kennedy. Attorney Brett Ryan of Watson & Ryan, PLC in Council Bluffs, Iowa represented the Board of Review at hearing. The Appeal Board ruled Exhibits 1-13 offered by the Appellant were excluded because they were both untimely and were requested, but not provided to supplement the initial discovery responses. Board of Review Exhibit A was also excluded as untimely. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Thomas Kennedy, owner of a residential property located at 53160 195th, Pacific Junction, Iowa, appeals from the Mills County Board of Review decision reassessing his property.

Kennedy protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). His petition to the Board of Review also sought an assessment of \$86,477. It was initially assessed for \$118,477, representing \$42,000 in land value and \$76,477 in improvement value. The Board of Review granted

the petition, in part, and reduced the land assessment by 5% to \$39,900 making the total assessment \$116,377.

The parcel is improved by a one-story, manufactured home built in 2001. The dwelling has 1404 square feet of living area, and a deck. It has a pier foundation. It is also improved by a 1200 square-foot, steel utility building. The property is of average construction quality (4+00) and is in normal condition. It is located on a 1.00-acre site.

Kennedy testified he purchased the property for \$63,000 six years ago. He believes the assessed value of the land is too high. In his opinion, an acre lot should be valued at \$13,000 based on his research and knowledge. He does not dispute the value of the dwelling. Kennedy explained the water is rusty and needed to be treated before use. He said the land is flat and the subject property is off a paved street. Kennedy did not provide any evidence to support his opinions.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

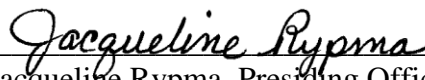
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

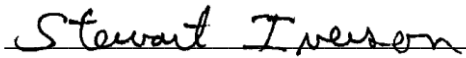
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

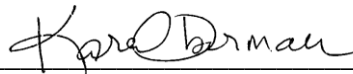
Kennedy voiced his opinion the assessment of his land is too high. However, he did not offer any admissible evidence to establish the fair market value of the subject property's land, such as an appraisal, comprehensive market analysis, or adjusted sales of comparable properties. This evidence is necessary to prevail on his market value claim. In summary, we determine the preponderance of the evidence does not support Kennedy's claim of over-assessment.

The Appeal Board orders the assessment of the subject property as determined by the Mills County Board of Review, as of January 1, 2013, is affirmed.

Dated this 15th day of May, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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